

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION

JAMES RAY WILLIAMS, #1069943	§	
VS.	§	CIVIL ACTION NO. 9:06cv207
DIRECTOR, TDCJ-CID	§	

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie, who issued a Report and Recommendation concluding that the petition for a writ of habeas corpus should be dismissed for failure to exhaust state habeas corpus remedies. The Petitioner has filed objections.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and the objections of the Petitioner are without merit.

The Petitioner stated in his objections that he filed the petition while his state application for a writ of habeas corpus was still pending because of the one year statute of limitations, but the one year deadline was tolled during the pendency of the state habeas corpus proceedings. 28 U.S.C. § 2244(d)(2). It was not necessary to file the present petition during the pendency of the state habeas corpus proceedings. The objections lack merit. Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the petition for a writ of habeas corpus is **DISMISSED** without prejudice.
It is further

ORDERED that all motions not previously ruled on are hereby **DENIED**.

So **ORDERED** and **SIGNED** this **18** day of **October, 2006**.

A handwritten signature in black ink, appearing to read "Ron Clark", is positioned above a horizontal line.

Ron Clark, United States District Judge